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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

MAR 19 2002

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of ) WT Docket No. 01-352

Application of )  
**HERBERT L. SCHOENBOHM** ) File No. 0000418274  
 for a Station Licensee in the )  
 Amateur Radio Service )

and )

Application of )  
**HERBERT L. SCHOENBOHM** )  
 for a General Class Operator License )  
 in the Amateur Radio Service )

To: Administrative Law Judge  
 Arthur I. Steinberg

**ENFORCEMENT BUREAU'S MOTION TO RULE ON OBJECTIONS LODGED  
 AGAINST ADMISSIONS REQUESTS**

1. The Enforcement Bureau, pursuant to section 1.246 and 1.291 of the Commission's rules, 47 C.F.R. §§ 1.246<sup>1</sup> and 1.291, hereby moves for a ruling on objections to various admissions requests the Bureau submitted to Herbert L. Schoenbohm on March 1, 2002. As explained herein, the Bureau believes that Mr. Schoenbohm's objections on the grounds of relevancy are without merit. Accordingly, the presiding judge should either deem the admissions requests noted below admitted or compel Mr. Schoenbohm to provide a substantive response.

<sup>1</sup> The Bureau recognizes that, pursuant to section 1.246(d) of the Commission's rules, 47 C.F.R. § 1.246(d), the presiding judge may rule on Mr. Schoenbohm's objections without additional pleadings. However, because there is no assurance that the presiding judge will do so, the Bureau is submitting the instant motion.

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CERTIFICATE OF SERVICE

Dana E. Leavitt of the Enforcement Bureau's Investigations and Hearings Division certifies that she has on this 19th day of March, 2002, sent by first class mail, email and facsimile or by hand copies of the foregoing "Enforcement Bureau's Motion to Rule on Objections Lodged Against Admissions Requests" to:

Herbert L. Schoenbohm (by mail, email and facsimile)  
Post Office Box 4419  
Kingshill, Virgin Islands, 00851

Administrative Law Judge Arthur I. Steinberg (by hand)  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room 1-C861  
Washington, D.C. 20054

  
Dana E. Leavitt

2. By *Hearing Designation Order*, 17 FCC Rcd 1369 (2002) (“*HDO*”), the Commission set for hearing Mr. Schoenbohm’s applications for a station license in the amateur radio service and for a General Class Operator License in the amateur radio service on the following issues:

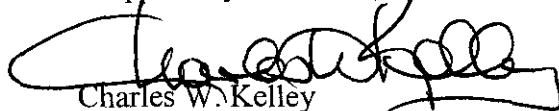
- (a) To determine whether Herbert Schoenbohm possesses the requisite character qualifications to be a Commission licensee.
- (b) To determine in light of the evidence adduced under issue (a), whether the captioned applications should be granted.

3. The Commission explained that resolution of the specified character issue was required due to its recent denial of applications to renew licenses formerly held by Mr. Schoenbohm because of a criminal conviction, misrepresentation, and lack of candor. To satisfy the Commission that grant of the captioned applications will serve the public interest, the *HDO* advised Mr. Schoenbohm that he would have to adduce evidence of rehabilitation. In the Bureau’s view, rehabilitation includes not only the factors set forth in the *HDO* at paragraph 5, but also a realization and acknowledgment that certain actions were inappropriate and should not be repeated. To that end, the Bureau sought from Mr. Schoenbohm admissions responses that either admitted wrongdoing or provided him an opportunity to deny wrongdoing and explain his state of mind when he uttered or submitted questionable testimony in the previous hearing proceeding. *See* Admissions Requests #s 14, 21, 22, 23, 24, 25, 28, 29, 30, 31 and 33.

the applicant to prevent further occurrence of misconduct.” In the Bureau’s view, a “meaningful measure” in this case would begin with Mr. Schoenbohm acknowledging past wrongs, expressing remorse, and promising to fulfill his obligation to be completely candid with the Commission in the future. *Cf. Front Range Educational Media Corp.*, 43 RR 2d 185, 188 (1978) (Commission finds significant applicant principal’s voluntary disclosure of previous wrongdoing, coupled with an explanation for the behavior and a promise to comply with all Commission rules in the future). *See also Richard Richards*, 10 FCC Rcd 3950, 3951 at ¶ 7 and 3958 at ¶ 34 (Rev. Bd. 1995) (Evidence of rehabilitation found in witness statements of applicant’s changed attitude and his intent to obey the law in the future).

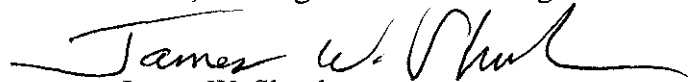
6. Accordingly, the Bureau seeks issuance of an order that either deems the admissions requests noted above admitted or compels Mr. Schoenbohm to provide a substantive response.

Respectfully submitted,



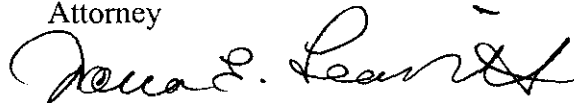
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4. As to each of the noted Admissions Requests, it appears that Mr. Schoenbohm lodged an identical objection on the grounds of relevancy.<sup>2</sup> He then argues that answering the request would require him to seek reversal of findings made in the previous proceeding (WT Docket No. 95-11) by the presiding administrative law judge and/or the Commission. The requests do no such thing. The focus of the Bureau's requests is not on the Commission's previous rulings but on Mr. Schoenbohm's state of mind. Should Mr. Schoenbohm acknowledge wrongdoing, the Bureau would expect him to express remorse at the upcoming hearing for his previous misbehavior. Conversely, should he provide an adequate explanation of his state of mind, remorse would be unnecessary. In either event, the Commission would begin to have a basis for determining whether Mr. Schoenbohm has been rehabilitated and thus whether he could be trusted in the future to deal with the Commission in a completely candid manner.

5. The Bureau recognizes that the Commission stated that it would not regularly consider whether a wrongdoer was contrite or unrepentant given the subjectivity involved in making such a judgment. *See Policy Regarding Character Qualifications in Broadcast Licensing*, 102 FCC 2d 1179, 1228 (1986). However, the Commission did not rule or suggest that such evidence was irrelevant in all cases. Moreover, in *Policy Regarding Character Qualifications in Broadcast Licensing*, 5 FCC Rcd 3252, 3254 n. 4 (1990), the Commission listed as a factor relative to rehabilitation "meaningful measures taken by

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<sup>2</sup> Plainly, there is some confusion between the numbers appearing in the Bureau's Admissions Requests and the numbers appearing in Mr. Schoenbohm's answers and objections. *See, e.g.*, Bureau's Admissions Request #23, and Mr. Schoenbohm's answers/objections #s 23, 24 and 26. The Bureau is addressing this apparent confusion in more detail in a separate motion.